

REMARKS

Entry of the foregoing, reconsideration of the restriction requirement, and further and favorable consideration of the subject Application in view of the following remarks and election **with traverse** are respectfully requested.

Amendment

By the present amendment, Claims 1 and 8 are canceled without prejudice or disclaimer of the subject matter disclosed therein.

Claims 12 and 13 are added. Support for Claims 12 and 13 may be found at least in Claim 1, as originally presented, in Figure 5 (Sample (d), Lane 3), at page 4, lines 25-30, in the paragraph bridging pages 10-11, and at page 11, lines 15-18.

Claims 9-11 are amended to depend from Claim 12 in view of the cancellation of Claim 1.

No new matter has been added by the present amendment. Applicants reserve the right to file a continuation or divisional application directed to any subject matter that may have been canceled by the present amendment.

Election

Applicants hereby elect **with traverse**, Group I, directed to a fibrinogen binding protein derived from Staphylococci and a pharmaceutical composition. Group I was composed of Claims 1, 8 and 9 as originally filed. By the present amendment, Claims 1 and 8 have been canceled and Claims 12 and 13 have been added. Claims 12 and 13 are

directed to a fibrinogen binding protein derived from *S. aureus*. Therefore, Claims 12 and 13 are directed to the invention encompassed in elected Group I.

The restriction requirement is respectfully traversed. Applicants request reconsideration of the restriction requirement and the re-joining of at least Groups III and IV with Group I.

For a restriction to be proper, there must be a serious burden on the Examiner. *See*, M.P.E.P. § 803.01. In the present case, the claims of Groups III and IV are dependent on a claim of Group I. Therefore, if the elected base claim is found allowable over the prior art, the dependent claims of Groups III and IV will necessarily be allowable over the prior art without further search. Furthermore, in view of the substantial overlap in subject matter, which is a necessary consequence of the dependency of the claims of Groups III and IV on a claim of Group I, the examination of all the claims of Groups I, III, and IV could be accomplished without imposing a serious burden upon the Examiner.

It is noted that a requirement was made that if Group I or II were elected, that the SEQ ID NO of the sequences recited in claims 8 or 6 be identified. While Group I has been elected, Claim 8 of Group I has been canceled by the present amendment. Therefore, this requirement is rendered moot.

As the examination of at least Groups I, III and IV together would not impose a serious burden on the Examiner, Applicants respectfully request the reconsideration of the restriction requirement and that at least the Groups III and IV be rejoined with elected Group I.

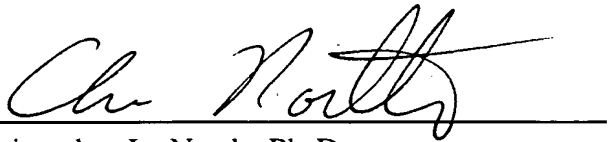
CONCLUSION

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

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**Attachment to Reply To Restriction Requirement and
Amendment dated January 21, 2003**

Marked-up Claims 9 - 11

9. (Amended) Pharmaceutical composition for the inhibition of Staphylococci binding to fibrinogen comprising a fibrinogen binding protein of claim [1] 12 in combination with a pharmaceutically acceptable carrier.

10. (Amended) Method for inhibition of Staphylococci binding to fibrinogen in mammals including humans, by administering a therapeutically and/or prophylactically effective amount of a fibrinogen binding protein of claim [1] 12 to a mammal in need of such treatment.

11. (Amended) Method for passive immunization against Staphylococcal infection, comprising administering to a mammal antibodies against a fibrinogen binding protein of claim [1] 12 in an amount sufficient to provide passive immunization.